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protocol. Virtually every medium to large carrier in the country is either in the process of upgrading older equipment to FLEX capability, or building out new FLEX systems, or has immediate expansion plans to do so. As demonstrated below, the freeze effectively stops this spectrally efficient conversion.

One of the major issues faced by carriers converting from a POCSAG system of various speeds to a FLEX protocol system is the increased signal level required at the paging receivers to operate at 6400 baud FLEX. Simply put, it requires more transmitters to serve a given area under FLEX than it does under POCSAG. For example, if an existing single site 512 baud POCSAG service area is modeled as a circle of 20 mile radius, it may take as many as four transmitters to "cover" that same service area when converting to 6400 baud FLEX. Unfortunately, the Part 22 Rules which define a service area (derived from the Carey curves) have never taken into consideration the system baud rate (and the associated increase in required receive signal level).

The difficulty the carrier upgrading or constructing its FLEX system faces is two-fold: first, with the technology so new, no truly accurate models are yet available for planning purposes; second, and more importantly, it is often necessary for the carrier to expand its service area - AS DEFINED BY THE RULES - simply to maintain its current TRUE service area. The staff will confirm that expansion of the service area typically brings about a concurrent expansion of the interference area the staff is so fond of citing. The freeze immediately halts many of these system upgrades to more spectrally efficient technologies.

Of course, the newest entrants into the paging market - those just building out their authorized systems - are even more significantly affected. They often had applied before FLEX was available, and due to the delay in the FCC processing systems, didn't receive licenses until after the FLEX protocol was introduced. Now, the staff wants to restrict those licensees to their originally filed site locations, even though in most instances those carriers MUST build FLEX systems to compete in the marketplace.

The necessity to construct FLEX capable systems is even more profound for those carriers planning to offer alphanumeric service to their customers. Alphanumeric service currently accounts for approximately 12% of all paging service, and has been held close to that level due to high costs to the subscriber. Until recently, carriers have been reluctant to increase alphanumeric paging traffic since such traffic utilizes a disproportionate share of channel air-time. However, the advent of high speed transmission in the FLEX protocol has now allowed carriers to consider offering inexpensive alphanumeric service to their customers. Many carriers have invested in advanced techniques to originate alpha traffic - such as internet gateways for e-mail, dedicated PC to paging terminal software, etc. - which would allow for rapid growth in this segment of the market. In many cases, the last remaining hurdle to the offering of these services was the installation and

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optimization of a FLEX capable RF network. The freeze immediately halts the widespread offering of desirable, inexpensive, alphanumeric paging to the public.

4. The NPRM redefines the interference contour, effectively modifying existing licenses

At paragraph 140 of the NPRM, the Commission recognizes "*that an across the board freeze could impair the ability of existing licensees to make certain necessary modifications to their systems to respond to consumer demand while the rulemaking is pending.*" That paragraph then goes on to allow incumbent licensees to add sites to existing systems or modify existing sites, "*provided that such additions or modifications do not expand the interference contour of the incumbents existing system.*"²⁷¹ Footnote 271 indicates that the interference contour is to be based on a median field strength of 21 dBµV/m. This change in the calculation of the interference contour from current Part 22 practice renders the Commission's purported relief from the freeze virtually useless. This is clearly indicated by the following calculations:

900 MHz station operating at 500 watts, 150 meters AAT

Interference contour under current Rules - 22.537(f)	-	80.5 Km
Interference contour under 21 dBµV/m criteria	-	55.0 Km

As shown above, the impact of the Commission's action in adopting this method of "relief" is that a 25 Km swath of what is now fringe area for carriers - and where expansion and fill-in plans are often already in place - has been taken away from the incumbent licensees. In more plain terms, the potential serving area of that site has been reduced (reference $A = \pi(R^2 - r^2)$) by 10,855 square kilometers or 6745 square miles. This is not relief, this is an illegal taking which acts to strangle the industry - just the opposite of its intended effect.

5. The freeze disproportionately harms smaller carriers contrary to national policy recently reaffirmed in the 1996 Telecom Act

The huge impact of the freeze on local and regional carriers is further aggravated by the Commission's decision to exempt nationwide carriers from the freeze. As the Commission is aware, the "nationwide" carriers provide much more local and regional services to the public than they do nationwide. These carriers are viable and formidable competitors in local markets across the country. One need only look into the Washington, DC Yellow pages (under "PAGING") and review the ads of such "nationwide" carriers as Metromedia, Metrocall, MobileComm, Pagenet and SkyTel - whose offerings include local, regional, national and even international paging service.

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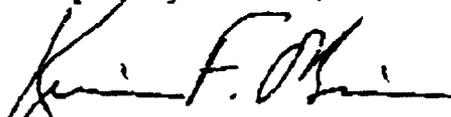
Likewise, the smaller local and regional carriers have been viable and formidable competitors to the nationwide carriers. That competition, which directly benefits more than 34 million Americans, has resulted in near constant system upgrading and expansion by all carriers during the past ten years. **The freeze has an immediate negative impact on competition in the paging services.**

To our knowledge, the industry at large was never consulted by either the staff or the Commissioner's concerning the implications of this freeze. The staff apparently was influenced by narrowband PCS and other services without relevance to the paging industry. Paging, as a mature industry, has unique characteristics which make analogy to other services - particularly new services in virgin spectrum - improper.

Paging is an extremely inexpensive and spectrally sound service relied upon as a critical communication link by more than 34 million Americans. In view of the above, we implore you to reconsider on this issue and immediately lift the freeze on the acceptance of paging applications. At this critical juncture in the development of the next generation paging systems, any delay will adversely effect the paging industry for years to come. All of the newest subscriber products being produced by the leading manufacturers are FLEX based. If only the nationwide carriers are able to offer those units at the local level, the competitive balance of the industry will be irreparably skewed - leaving tens of millions of subscribers with fewer choices and higher rates.

Thank you for your immediate consideration of this paramount issue. Should you require any additional information, please feel free to contact me.

Respectfully submitted,



Kevin F. O'Brien
President

Attachment:
copy list

ALL STATE™ LEGAL 800-222-0610 EDRI1 RECYCLED



**Re: FCC Docket 96-52
February 28, 1996**

DECLARATION OF JOHN KNIGHT, SR.

I, John Knight, Sr., declare that the following is true and correct to the best of my knowledge and belief:

1. I am a partner in Merryville Investments, a partnership doing business as Best Page, LLC in Alpharetta, Georgia. I have been in the paging business since 1988 when my family founded Sig-Net Paging of Charlotte, Inc. ("Sig-Net") which was licensed and operating on 152.480 MHz.

2. I have prepared this Declaration on behalf of the Coalition for a Competitive Paging Industry, of which I am a member. In addition, by letter dated February 14, 1996, I wrote to the Chairman of the Federal Communications Commission concerning the freeze imposed on new and pending paging applications, and the detrimental impact that it will have on the fledgling company that I am in the process of building with my family.

3. I have reviewed the Commission's Notice of Proposed Rule Making in WT Docket No. 96-18 ("NPRM"), and in particular those portions of the NPRM related to the Interim Licensing Proposal (the "Freeze"). The halt on the processing of new pager licensing applications has already had, and will continue to have, a severe and extremely detrimental impact on my new business, Best Page.

Experience in the Paging Industry

4. We developed Sig-Net from the ground up, beginning with only four employees (one programmer and three family members) and no established sales. Over the years, our customer base and sales grew exponentially, as did the size of our work force and equipment purchases. Thus, by March of 1995, when we sold our company to ProNet, Inc., we had 47 employees, an annual payroll of \$578,000 and sales of \$6,000,000. Overall, during the 7 year

period that we owned the company we purchased approximately \$5,100,000 in equipment necessary to operate our paging system.

The New Venture and Harm Imposed by the Freeze

5. Prior to selling Sig-Net, we made plans to establish a new paging business in Atlanta, Georgia. Thus, we purchased a license on 931.2125 in Atlanta and in December 1994 we filed licensing applications for 7 key sites to secure 931.2125 for the entire State of Georgia. In July of 1995 we filed applications for 26 additional sites necessary to begin our coverage of Georgia. The system is not yet operational, and our ability to move forward, as discussed below, has been significantly hampered by the uncertainty wrought by the Freeze.

6. Given the sharp competition we face, and my many years of experience in the industry, I knew from the outset that we would need to continue to add transmitter sites to remain competitive and viable. This is because additional sites are needed to fill in gaps in our service area, expand our service area to capture additional customers and take full advantage of the new FLEX system becoming the industry standard. As a result, on November 30, 1995 and February 7, 1996, we filed 929 Private Carrier Paging ("PCP") applications requesting exclusivity and on February 7, 1996, we filed additional Common Carrier Paging ("CCP") applications. The CCP applications were pending on the date of the Freeze, although the relevant period for filing competing applications had not expired. These applications are, therefore, held in abeyance pending the notice and comment proceedings, as mandated by the Freeze.

7. To date we have spent considerable time, effort and money on legal, engineering and accounting services to secure licenses, plan the paging system and write an effective business plan. We have spent well in excess of \$150,000 for these professional services alone.

8. The three-year business plan was written, consistent with the foregoing, with an eye towards expanding our coverage -- through additional transmitter sites -- beyond the initial buildout allowed by our current licenses. Consistent with this plan, we made an initial investment in equipment, ordering paging terminal equipment costing approximately \$250,000. Due to the uncertainty caused by the Freeze, however, other components of the plan are put on

"hold." Thus, we have decided not to purchase certain base station transmitters – costing approximately \$800,000 – that we had previously determined to buy and have held off hiring some of the personnel that we anticipated hiring at this time. Moreover, discussions with a potential partner interested in investing \$500,000 in our company have been indefinitely postponed in light of concerns regarding when – if at all – we will be able to move ahead with our growth plans. Thus, we are directly and significantly hampered in our ability to make both long-term and short-term business decisions necessary to move the company forward and to put it on the right track because we do not know whether – or when – we will be able to acquire the additional licenses that will allow our business to grow and to remain competitive.

9. There were certain decisions, however, that we just could not postpone. Thus, for instances, after a lengthy search we identified an extremely qualified technician that we wished to hire. He needed a decision from us, and despite the significant uncertainty resulting from the freeze and the fact that he will be under employed until the Freeze is resolved, we went ahead and hired him. Accordingly, each day that the Freeze continues we are incurring unnecessary costs in this and many other ways.

10. If the Freeze remains in place, we doubt that we will be able to remain a long-term player in the paging market in Georgia. This is because PageNet, our main competitor for local business in our service area, has nationwide exclusivity on at least 5 frequencies in Atlanta and is not subject to the Freeze. Accordingly, while we are wholly restricted in our ability to expand, the nationwide companies – like PageNet – remain unfettered in their ability to secure new licenses and sites which will enable them to build out and expand their present coverage, and to offer attractive new technology to their customers and potential customers. This discriminatory treatment will make it extremely difficult – if not outright impossible -- for us to attract and maintain customers in the future, and thus to survive. This is an extremely serious issue which if not addressed may force many operators out of business.


John Knight, Sr.
Partner, Merryville Investments

Dated: February 28, 1996



Re: FCC Docket 96-52
February 28, 1996

DECLARATION OF JOSEPH H. BUTTNER

I, Joseph H. Buttner, declare that the following is true and correct to the best of my knowledge and belief.

1. I am Vice President of Radio Communications of VA, Inc. ("RCVA"), based in Glen Allen, Virginia. RCVA is a commissioned licensee and operator in the 800 MHz and 220 MHz SMR bands. RCVA is the largest Motorola service shop in Virginia. RCVA is now in the process constructing a common carrier paging system on the frequency 152.69 MHz pursuant to Commission authorization.

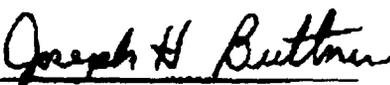
2. As experienced radio system operators, we believe that it is imperative that we have the ability to make modifications based on the results of initial system operational testing. Such modifications are not unusual. As a result of the freeze, our inability to make these needed adjustments and modifications may result in further delay in providing service to the public.

3. This difficulty is exacerbated, perhaps, in our case because our system was initially designed to serve POCSAG units. When the time came to order equipment, it became apparent that FLEX technology would soon make this system design obsolete. At considerable expense, we changed our order to purchase FLEX-capable equipment. Installation of this improved FLEX-based system will require significant operational testing and adjustments. The freeze will severely hamper our ability to implement this FLEX-based system.

3. As a new entrant in the highly competitive Richmond paging marketplace, we are confronted with a difficult burden in competing with local and now unrestricted "nationwide" competitors for subscribers. We are aware of potential opportunities to provide paging service to new industrial areas surrounding Richmond. For example, we have been approached by a major manufacturer about providing service for as many as 5000 units. This opportunity is contingent on our ability to place a transmitter on or near their facility. However, as a result of the freeze, our ability to respond to opportunities such as these will be precluded during this crucial start-up period. We are afraid that we will lose essential business like this to nationwide carriers, not subject to the same constraints.

4. Since we decided to enter the paging business in June of 1995, we have obtained the necessary licenses to build our core system. To date, we have invested over \$ 215,000 in obtaining the necessary licenses and purchasing and installing the required infrastructure. Further, we have incurred lease obligations of approximately \$4,000 a month, for which we continue to be liable even though our ability to grow our business has been seriously hindered by the freeze. RCVA currently employs 38 employees. If we are unable to make crucial adjustments needed to complete and operate our system, our paging service will be imperiled.

5. This declaration is being submitted in support of the Emergency Petition for Immediate Withdrawal of Freeze being filed with the Federal Communications Commission.



Joseph H. Butts

DATED: February 28, 1996.



Re: FCC Docket 96-52
February 28, 1996

DECLARATION OF JACK L. BAKER

I, Jack L. Baker, declare that the following is true and correct to the best of my knowledge and belief.

1. I am the President of Mountain Communications, Inc., based in Mountain Home, Arkansas, a rural area near the Missouri border. Mountain Communications operates a VHF private carrier paging (PCP) service on a shared channel at 152.48 MHz. Mountain Communication is an affiliate of A Plus Network, an affiliation of local paging companies who coordinate their activities to provide regional and nationwide service on 152.48 MHz.

2. Mountain Communications has been in the process of expanding our local service area by requesting additional sites on 152.48 MHz. We have an application for additional paging sites pending before the PCIA/NABER frequency coordinators. That application has been frozen because it was not forwarded by PCIA/NABER to the Commission prior to February 8, 1996. Since the approval had not issued before February 8, our planned expansion of service has been indefinitely postponed.

3. Our principal channel has become quite crowded in light of the joint demand of the regional/nationwide network and the strong local demand for voice paging service. Mountain Communications conducted a search for an additional paging frequency to increase our capacity to adequately serve existing customers' voice paging traffic. We were in the process of drafting our application for an available VHF common carrier channel in Mountain Home when the

Commission imposed its licensing freeze. Because of the freeze, we will be handicapped in our efforts to improve our service to keep up with the demands of our existing customers.

4. This declaration is being submitted in support of the Emergency Petition for Immediate Withdrawal of Freeze being filed with the Federal Communications Commission.



Jack I. Baker

Dated: February 28, 1996.



ALL-STATE LEGAL SUPPLY CO. 1-800-222-0510 EDRI1 RECYCLED

Re: FCC Docket 96-52
February 28, 1996

DECLARATION OF LOUIS S. ZANDY

I, Louis S. Zandy, declare that the following is true and correct to the best of my knowledge and belief.

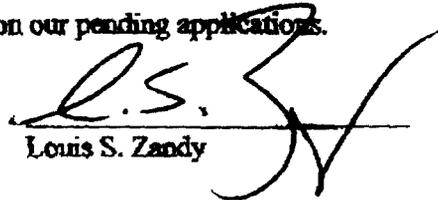
1. I am Vice President of Always Answering Service, Inc. ("Always Answering") based in Hagerstown, Maryland. Always Answering began operations in 1986 with one site, and currently serves 20,000 subscribers with 20 sites in Maryland, Virginia, and portions of West Virginia and southern Pennsylvania. We operate on 152.66 MHz.

2. We have a pending application for a new transmitter site in Haymarket, Virginia on 152.66 MHz. This new site is intended to improve service to our subscribers in the Haymarket area.

3. This application has been "frozen" and will not be processed under their interim licensing procedures because the 30-day cut-off period for competing applications had not expired.

4. The application was filed at the Mellon Bank in Pittsburgh on December 20, 1995, but due to the FCC shutdown, it was not stamped received by the agency until January 10, 1996. Because of delay due to budget and snow-related closures, our application did not get through the 30-day notice period for MX VHF paging systems before the Commission issued its freeze order

effective February 8, 1996. Each day that goes by we are hampered in our ability to provide services to our customers as a result of the freeze on our pending applications.


Louis S. Zandy

CERTIFICATE OF SERVICE

I, FELICIA G. DELANEY hereby certify that the foregoing document was sent by first class mail, postage prepaid, or hand-delivered, on this 28th day of February, 1996, to the following persons:

*Chairman Reed E. Hundt
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

*Commissioner James H. Quello
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

*Commissioner Andrew C. Barrett
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, D.C. 20554

*Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street, N.W., Room 844
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*Commissioner Susan Ness
Federal Communications Commission
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Mark Golden
Vice President
Industry Affairs
Personal Communications Industry Association
500 Montgomery Street, Suite 700
Alexandria, VA 22314

A handwritten signature in black ink, appearing to read "Mark Golden", written over a horizontal line.

*Hand Delivered